IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 23316 of 2003

Between:

M.Lakshminarayana, S/o M.Narayanappa
R/o Kurugunta Village, Anantapur Mandal and District.

..... PETITIONER

AND

1 The District Collector, Anantapur.
2 The Joint Collector, Anantapur.
3 The Revenue Divisional Officer, Anantapur.
4 The Mandal Revenue Officer, Anantapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the order of the 1st respondent passed in D.Dis.K4/A.T.P/4821/03 dated 18-10-2003 confirming the order of the 2nd and 3rd respondent passed in D.Dis K4/A.T.P/1457/2000 dated 31.3.2003 and D.Dis.No.D1/CS/776/99 dated 26-2-2000 as illegal arbitrary and is in violation of principles of natural justice and consequently direct the respondents to restore the authorization granted in favour of the petitioner.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents No.1 to 4: GP FOR CIVIL SUPPLIES

The Court made the following:

Oral order:-

The petitioner was appointed as a 'fair price shop dealer' of Kurugunta village, Anantapur mandal and District in 1984. It appears that the 4th respondent--Mandal Revenue Officer, Anantapur, while inspecting the examination center at Korugunta Residential School at the Group-I preliminary examination, on 04-04-1993 saw an auto rickshaw carrying a plastic can with blue dyed kerosene proceeding towards Anantapur town. On his enquiries with the auto driver, the 4th respondent inferred that the kerosene was drawn from the fair price shop run by the petitioner and was being irregularly transported on the petitioner's instructions. Thereupon, the 3rd respondent, on 09-04-1999, suspended the authorization of the petitioner and also called upon him to show cause why his dealership should not be cancelled. In his order dated 09-04-1999, the 3rd respondent set out two articles of charge viz., (a) that the petitioner was involved in Section 6-A (Essential Commodities Act, 1955) case, while diverting PDS kerosene oil of about 108 litres into the black market for his pecuniary gains, thereby contravening the clause 28 of the A.P.P.P. (L & RS) Order, 1980 and (b) that the petitioner had diverted the blue dyed kerosene oil meant for ration card holders under the public distribution system through Auto No. AP-02-T9174 for his pecuniary gains to Sri S. Narayanaswamy of Anantapur and that he thereby violated condition No.13 of the authorization.

The petitioner submitted his explanation to the show cause notice and by the order dated 26-02-2000, the 3rd respondent cancelled the petitioner's licence for the fair price shop. It is required to be noticed that in the order dated 26-02-2000 the 3rd respondent referred to the fact that on previous occasions in 1997, the petitioner's authorization was suspended, pending inquiry, on the report of the Mandal Revenue Officer, Anantapur and thereafter restored by imposing a fine of Rs.350-00; and again on another occasion, he was warned to be careful in future in remitting

demand drafts towards essential commodities allotted to his fair price shop. This was by proceedings dated 22-12-1998. These instances of earlier misconduct of the petitioner were not put to him in the show cause notice dated 09-04-1999. Even in the impugned order, the 3rd respondent did not refer to any evidence on the basis of which he concluded *ipse dixit* that the fair price shop dealer had diverted the public distribution commodities into the black market in the auto rickshaw No. AP-02-T-9174.

Be that as it may, as there was an appellate remedy and he was informed so, the petitioner preferred an appeal against the aforesaid order of the 3rd respondent to the 2nd respondent. The 2nd respondent, by the order dated 31-03-2003 rejected the appeal. The following has been recorded by the 2nd respondent in rejecting the appeal:

> "…The case has been posted for final hearing on 15-03-2003. The advocate for the appellant has attended the hearing and argued stating that there was delay in lifting the E.Cs. and that the 108 litres of K. Oil that was seized while being transported through an Auto is not related to the FP shop and that the same lapse was not detected during the inspection and that the Mandal Revenue Officer, has not been in good terms with the FP shop dealer.
>
> Perused the grounds of the appeal, orders and the records of lower court and heard the arguments. As seen from the records, it is found that the cancellation orders passed by the Revenue Divisional Officer, Anantapur are correct and it is also found that the appellant had committed grave irregularities like non-distribution of school rice and misuse of 183 literes of K. Oil.
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> In view of the above, I feel it is not necessary to interfere with the orders passed by the Revenue Divisional Officer, Anantapur and accordingly the appeal is dismissed."

As is apparent, the 2nd respondent's order don't even contain an apology for reasons. An higher level of perversity, is discernable in the order of the 2nd respondent. As the petitioner had the revisional remedy available to the 1st respondent, he pursued such a remedy. The 1st respondent, relying on two reports of the Mandal Revenue Officer, Anantapur, dated 04-04-1999 and 17-04-1999, which were not furnished to the petitioner and in respect of whose contents the petitioner's response was not sought, concluded in the revision that the petitioner

had not delivered 183 litres of kerosene oil to 61 card holders and had diverted the kerosene by the auto rickshaw for use in black market. The 1st respondent's revisional order also recorded, on the basis of the *ex-parte* reports of the 4th respondent that the petitioner had not made entries relating to March sales of kerosene oil in 61 cards specified in the revisional order. The 1st respondent additionally recorded that the petitioner did not produce the stock register before any authority in the counter report of the Deputy Tahasildar (Civil Supplies), Anantapur.

Thus, as could be seen, on the basis of *ex-partes* report of the 4th respondent, the 1st respondent came to a conclusion as to the misconduct of the petitioner on allegations, which are not even put to him in the show cause notice of the 3rd respondent dated 09-04-1999. The entirety of the proceedings of the 1st to 3rd respondents are perverse and unsustainable. There is not even a ritualistic compliance, even with the minimum standards of fair play. Apart from being an exposition of the incompetence of the 1st to 3rd respondents in conducting an inquiry, even into as simple an issue as to the misconduct or irregularity of the fair price shop dealers, nothing fruitful to the public interest has resulted from the elaborate exercise of 1st to 3rd respondents.

In the result, the writ petition is allowed. The order of the 3rd respondent dated 26-02-2000 as confirmed in appeal by the 2nd respondent by order dated 31-03-2003 and further confirmed by the rejection of the revision by the 1st respondent by order dated 18-10-2003, are all set aside and quashed.

From a perusal of the record in this case, it appears that there was on record some material on the basis of which proceedings could have been initiated against the petitioner and action could have been taken against him in a sustainable manner, had action been pursued even with a modicum of forensic discipline. Unfortunately, the impugned orders fell short of even minimul standards of forensic discipline and logical harmony. Perhaps, in order to safeguard the public interest, it is necessary that Revenue Officials, at every level, who are entrusted with the task of quasi judicial powers are given a minimul training in the conduct of disciplinary proceedings, before allotting them quasi judicial functions.

The writ petition is allowed, as above. There shall be no order as to costs.

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GODA RAGHURAM, J

Dt. 30-12-2004

Pvks/*

Nb: Furnish a copy of this order to the Chief Secretary to the Government,

Government of Andhra Pradesh, Hyderabad for kind consideration.

That Rule Nisi has been made absolute, as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Thursday the 30th day of December, Two thousand and four.

To

1 The District Collector, Anantapur.
2 The Joint Collector, Anantapur.
3 The Revenue Divisional Officer, Anantapur.
4 The Mandal Revenue Officer, Anantapur

5. 2CCs to the Government Pleader for Civil Supplies, A.P. High Court Buildings, Hyderabad (OUT).

6. 2CD copies

7. The Chief Secretary to the Government, Government of Andhra Pradesh, Hyderabad for kind consideration.

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